

**Firearms Technology-Criminal Branch
Report of Technical Examination**244 Needy Road
Martinsburg, WV 25405Phone: 304-616-4310
Fax: 304-616-4301**To:**Task Force Officer Lisa Brackeen
Bureau of Alcohol, Tobacco, Firearms and Explosives
166 Roadrunner Parkway, Suite 2-C
Las Cruces, New Mexico 88011**Date:** MAR 02 2016**UI#:** 785120-16-0011**RE:** SALAS, Isaac**FTB#:** 2016-181-GR/EXP
304537**Date Exhibits Received:** 2/9/2016**Type of Examination Requested:****Delivered By:** FedEx 7756 0244 2677

Test, Examination, Classification

Exhibits:

1. Modified oil filter, no serial number (suspected silencer).
2. Metal cylindrical device, no serial number (suspected silencer).
3. Metal cylindrical device, no serial number (suspected silencer).
7. Heckler & Koch, Model HK 416D, .22 LR caliber rifle bearing serial number WH017115 and a metal cylindrical device bearing no serial number (suspected silencer).

Pertinent Authority:

The **Gun Control Act of 1968 (GCA)**, 18 U.S.C. § 921(a)(3), defines the term “firearm” to include:

“...*(A) any weapon (including a starter gun) which will or is designed to or may be readily converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or silencer; or (D) any destructive device. Such term does not include an antique firearm.*”

In addition, the GCA defines the terms “firearm silencer” and “firearm muffler” to mean—

“...*any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.*” (See 18 U.S.C. § 921(a)(24).)

The **National Firearms Act (NFA)**, 26 U.S.C. § 5845(a), defines “firearm” as—

“...*(1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e);*”

Pertinent Authority (cont.):

(6) a machinegun; (7) any silencer (as defined in 18 U.S.C., section 921); and (8) a destructive device. The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the ...[Attorney General] ...finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon."

As indicated, the NFA defines "**firearm**," in part, as: "*...any silencer (as defined in Section 921 of Title 18, United States Code)....*" (See 26 U.S.C. § 5845(a)(7).)

Finally, the NFA, § 5842, "**Identification of firearms**," states:

"... (a) Identification of firearms other than destructive devices. - Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the...[Attorney General] ...may by regulations prescribe. (b) Firearms without serial number. - Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the...[Attorney General] ...and any other information the...[latter] ... may by regulations prescribe."

Findings:

Exhibit 1 is a modified oil filter, which is coated with black paint. The Exhibit is approximately 5-1/4 inches in length and approximately 3-3/4 inches at its major diameter. The oil filter has been modified by the addition of a metal adapter which is threaded with a 1/2x28 TPI thread pitch that facilitates attachment of the Exhibit to threads on the muzzles of standard AR-15 family rifles (see photos attached). I noted the front end-cap area is devoid of a hole to allow for the passage of an ammunition projectile to pass through.

I determined that the Exhibit consists of front and rear end-caps, outer body, expansion chambers, and baffling material. These features and characteristics are consistent with those of known homemade firearm silencers made from automotive oil filters.

Exhibit 2 is a metal cylindrical device approximately 8-1/2 inches in length and approximately 1-1/8 inch at its major diameter. I found that the device is marked with the Los Angeles Police Department SWAT logo and "**sounds of nature**" stamped on its outer tube (see photos attached). Further, the front end of the device has an end-cap with a hole in its center approximately 1/4-inch in diameter. The Exhibit also has a rear end-cap that contains a hole in its center approximately 5/8 inch in diameter. This end-cap contains a series of set screws that facilitate attachment of the device to a firearm barrel.

During my examination, I observed that the interior consists of an expansion chamber containing a series of smaller expansion chambers, baffles, and a ported sleeve.

Findings (cont.):

For sound-comparison test purposes, I used a Mossberg, Model 142-A .22 LR caliber bolt action rifle from the ATF National Firearms Collection (NFC), with and without Exhibit 2 attached. I conducted the sound-comparison testing at the ATF test range, Martinsburg, West Virginia, on February 25, 2016, using commercially available, CCI brand, .22 LR caliber ammunition. The testing was conducted in the presence of a Bruel & Kjaer, Nexus Acoustic Conditioner Amplifier, calibrated precision sound-level meter. I followed the standard operating procedures established by ATF for conducting the testing. During this procedure, a pre and post self-test calibration verification procedure was automatically conducted. The instrument passed both the pre and post self-test calibration verifications.

The results of the testing are as follows:

NFC Mossberg with no silencer	(5-shot average)	143.16 decibels
NFC Mossberg with Exhibit 2 attached	(5-shot average)	125.34 decibels

The sound reduction recorded was **17.82** decibels. The test results establish that Exhibit 2 is capable of diminishing the sound report of the Mossberg rifle.

Exhibit 3 is a metal cylindrical device approximately 8-1/4 inches in length and approximately 1-1/4 inch at its major diameter. I found that the device is marked with a logo "H FIRE" on its outer tube (see photos attached). Further, the front end of the device has an end-cap with a hole in its center approximately 5/16-inch in diameter. The Exhibit also has a rear end-cap that contains a hole in its center approximately 5/8 inch in diameter; this end-cap contains a series of set screws that facilitate attachment of the device to a firearm barrel.

During my examination, I observed that the interior consists of an expansion chamber containing a series of smaller expansion chambers and baffles. Additionally, I observed that the interior is coated with grey residue.

For sound-comparison test purposes, I used a Mossberg, Model 142-A .22 LR caliber bolt action rifle from the NFC, with and without Exhibit 3 attached. I conducted the sound-comparison testing at the ATF test range, Martinsburg, West Virginia, on February 25, 2016, using commercially available, CCI brand, .22 LR caliber ammunition. The testing was conducted in the presence of a Bruel & Kjaer, Nexus Acoustic Conditioner Amplifier, calibrated precision sound-level meter. I followed the standard operating procedures established by ATF for conducting the testing. During this procedure, a pre and post self-test calibration verification procedure was automatically conducted. The instrument passed both the pre and post self-test calibration verifications.

The results of the testing are as follows:

NFC Mossberg with no silencer	(5-shot average)	142.07 decibels
NFC Mossberg with Exhibit 3 attached	(5-shot average)	127.53 decibels

The sound reduction recorded was **14.55** decibels. The test results establish that Exhibit 3 is capable of diminishing the sound report of the Mossberg rifle.

Findings (cont.):

Exhibit 7 is a .22 LR caliber semiautomatic rifle manufactured by Carl Walther, in Germany and marketed by Heckler & Hoch, Inc. The Exhibit is fitted with telescoping stock, bipod, vertical fore grip, and an optic. The Exhibit also includes a threaded muzzle device (hereby referred to as Exhibit 7-a).

During my examination, I observed the following markings on Exhibit 7:

On the left side of the magazine well

- *[the Heckler & Koch "HK" logo]*
- **HK 416 D**
- **Cal. .22 L.R. HV**
- **WH017115** *[the serial number]*

On the right side of the magazine well

- **LICENSED TRADEMARK OF**
- **HECKLER&KOCH INC.**
- **MADE BY CARL WALTHER**
- **GERMANY**

On the left side of the receiver (above the trigger guard)

- **US IMPORTER**
- **WALTHER ARMS**
- **FORT SMAITH, AR**

The selector markings

- **SAFE** *[at the 9 O'clock position]*
- **FIRE** *[at the 12 O'clock position]*

Additionally, I noted that the muzzle of the Exhibit is threaded in a thread pitch comparable to facilitate attachment of the muzzle device in Exhibit 7-a.

I test-fired Exhibit 7 at the ATF test range, Martinsburg, West Virginia, on February 25, 2016, using commercially available, Remington brand, .223 caliber ammunition. The Exhibit successfully expelled a projectile by the action of an explosive.

Exhibit 7-a is a metal cylindrical device approximately 6-1/4 inches in length and approximately 1-3/16 inch at its major diameter. I found that the device has no serial number or markings with regard to its manufacturer. The front end of the device has an end-cap with a hole in its center approximately 1/4-inch in diameter. The Exhibit also has a rear end-cap that contains a hole in its center approximately 5/8 inch in diameter which is internally threaded that facilitates attachment of the device to the barrel of Exhibit 7.

Findings (cont.):

During my examination, I observed that the device is designed to fit over the muzzle of Exhibit 7; and the internal threads are designed to hold it in place. Additionally, the interior portion of the Exhibit that is forward of these internal threads is a straight tube – containing no end-cap or expansion chamber.

I determined that the Exhibit as received is a mock silencer and not a “firearm” as defined in the GCA or NFA.

Conclusions:

Exhibit 1: If intent was demonstrated to use the device for silencing, muffling or diminishing the report of a portable firearm, would be classified as a “firearm silencer” as defined in 18 U.S.C. § 921(a)(24) and as a “firearm” as defined in 18 U.S.C. § 921(a)(3)(C) and 26 U.S.C. § 5845(a)(7).

Exhibit 2 is a “firearm” as defined in 18 U.S.C. § 921(a)(3)(C).

Exhibit 2, being a device for silencing, muffling, or diminishing the report of a portable firearm, is a “firearm silencer” as defined in 18 U.S.C. § 921(a)(24).

Exhibit 2 is a silencer by design, construction, and function; therefore, it is also a “firearm” as defined in 26 U.S.C. § 5845(a)(7).

Exhibit 2 bears no manufacturer’s marks of identification or serial number as required by 26 U.S.C. § 5842.

Exhibit 3 is a “firearm” as defined in 18 U.S.C. § 921(a)(3)(C).

Exhibit 3, being a device for silencing, muffling, or diminishing the report of a portable firearm, is a “firearm silencer” as defined in 18 U.S.C. § 921(a)(24).

Exhibit 3 is a silencer by design, construction, and function; therefore, it is also a “firearm” as defined in 26 U.S.C. § 5845(a)(7).

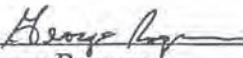
Exhibit 3 bears no manufacturer’s marks of identification or serial number as required by 26 U.S.C. § 5842.

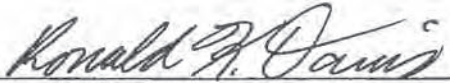
Exhibit 7 is a “firearm” as defined in 18 U.S.C. § 921(a)(3)(A).

Exhibit 7-a is not a “firearm” as defined in 18 U.S.C. § 921(a)(3)(C) or 26 U.S.C. § 5845(a)(7).

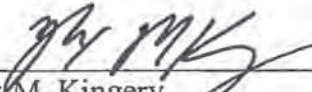
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Examined By:


George Rogers
Firearms Enforcement Officer


Ronald K. Davis
Firearms Enforcement Officer
(Witness)

Approved By:


Max M. Kingery
Chief - Firearms Technology Criminal Branch

Attachments: Five pages bearing a total of nine photos.

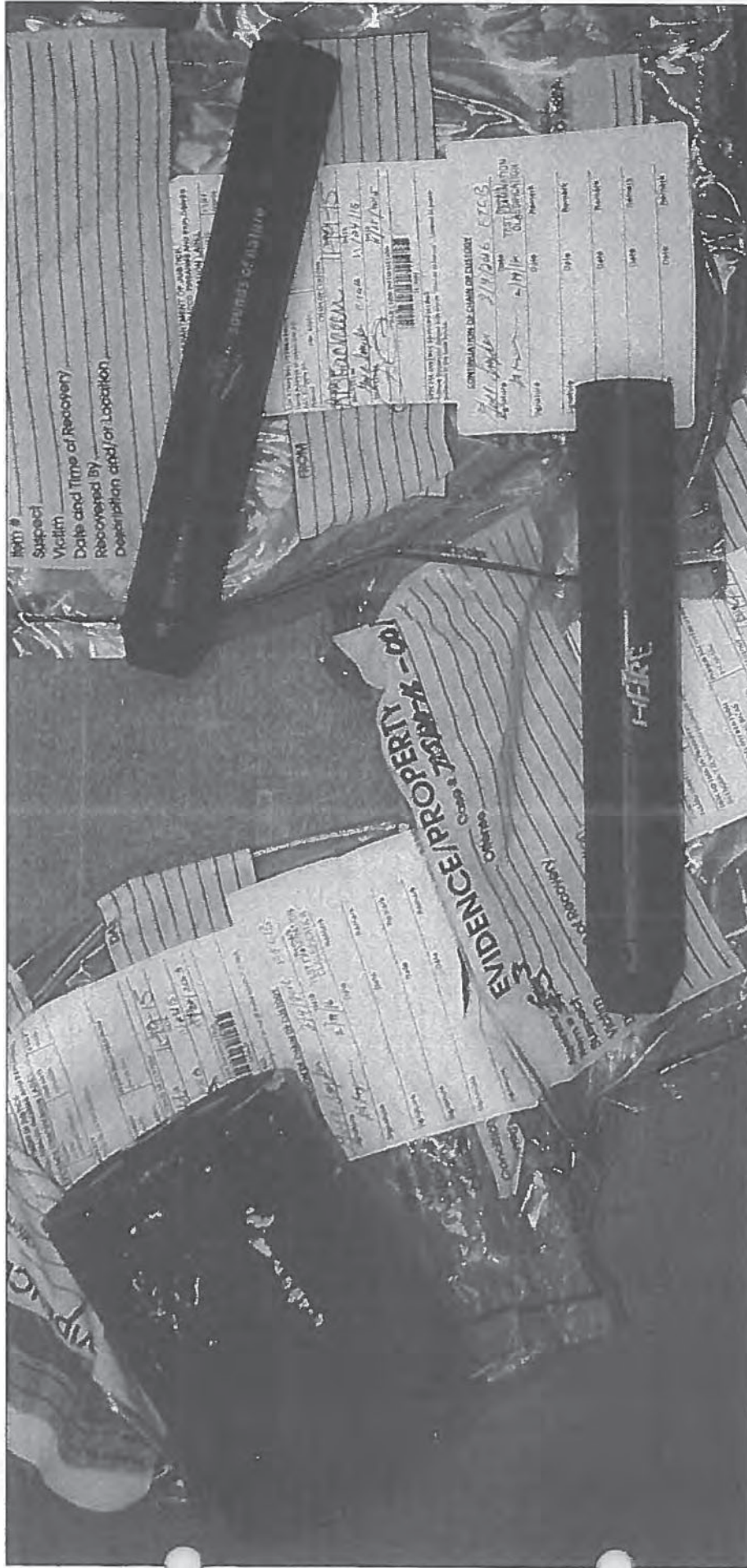
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ATF Form 3311.2
Revised June 2005

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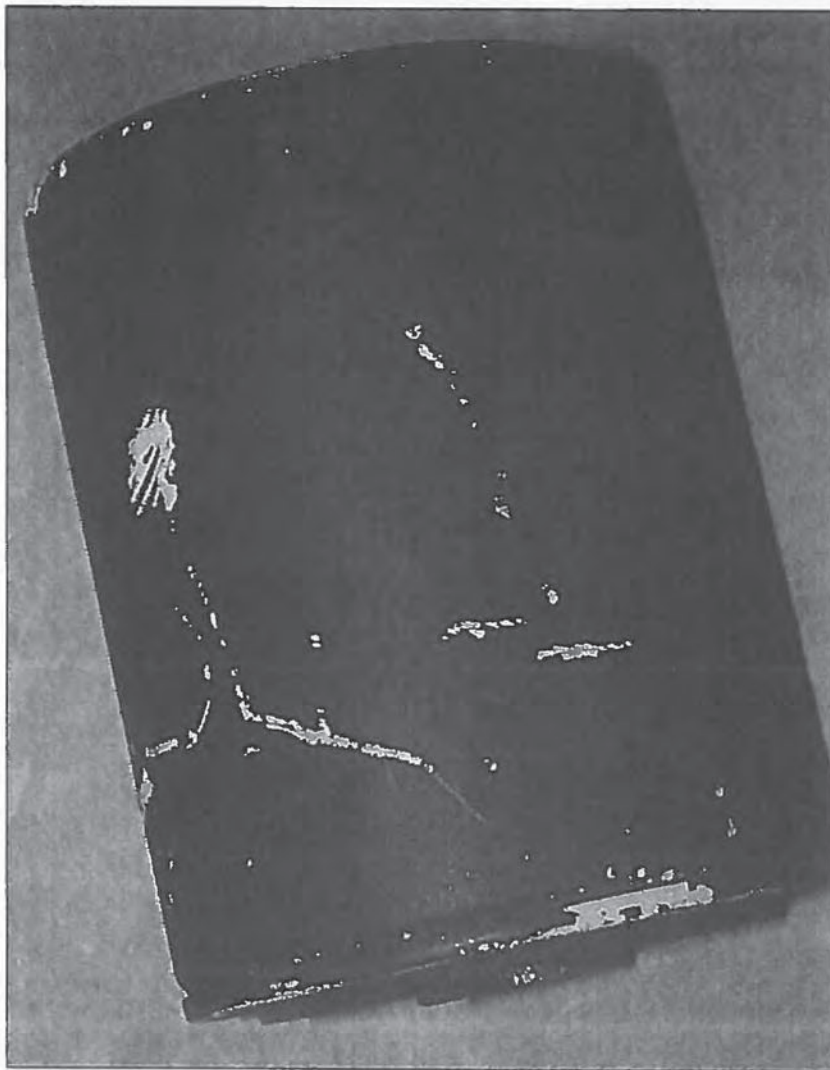
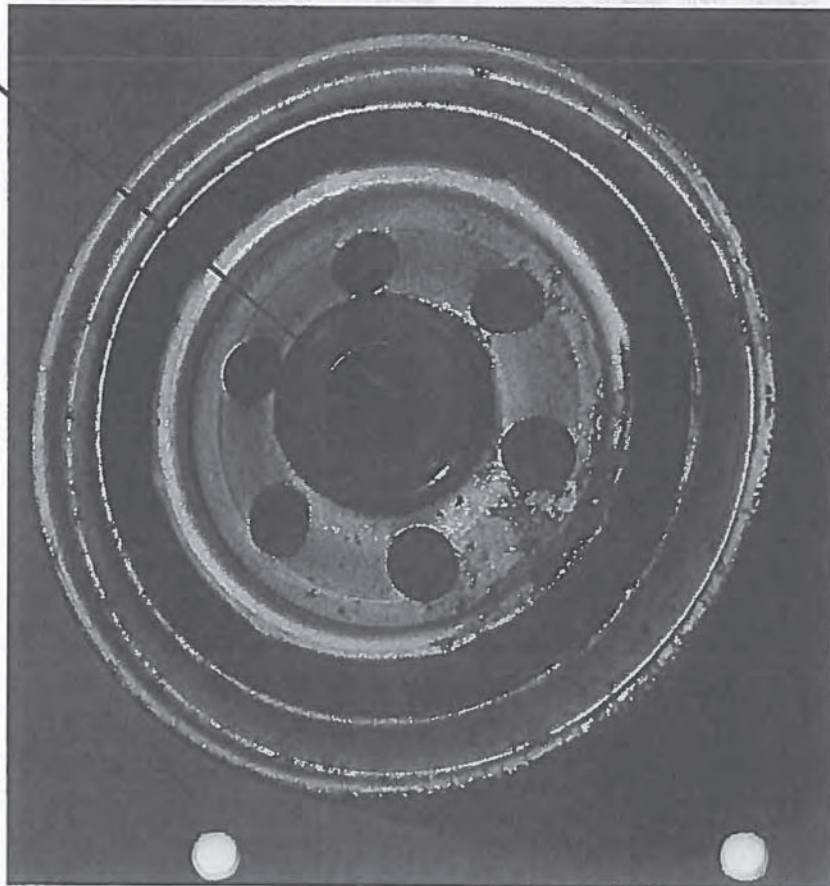
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Exhibits 1 (top-left); 2 (top-right); and 3 (bottom-center) as received.
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Views of the Exhibit 1 modified oil filter. Note: threaded firearm muzzle adapter (left photo.)

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Exhibit 2 silencer (top); Exhibit 2 silencer attached to the NFC rifle during test-firing (below) .

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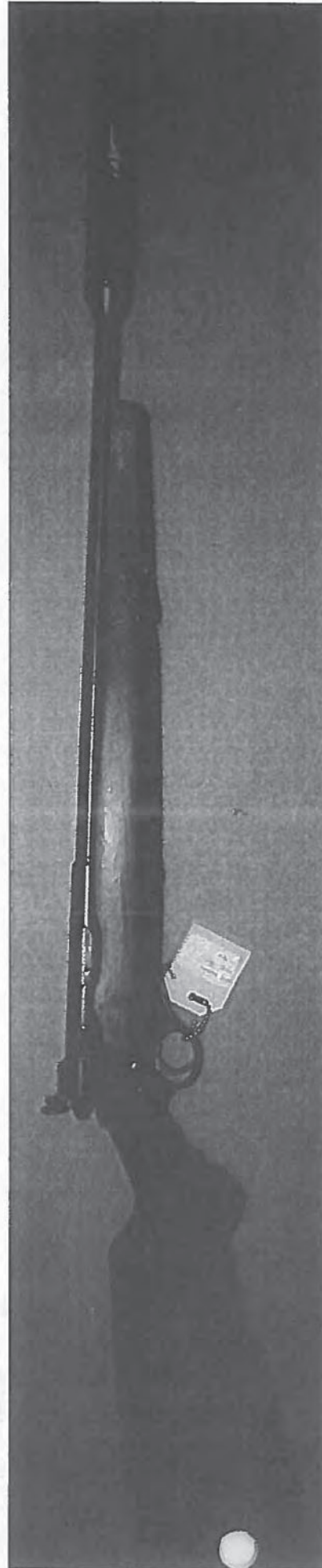
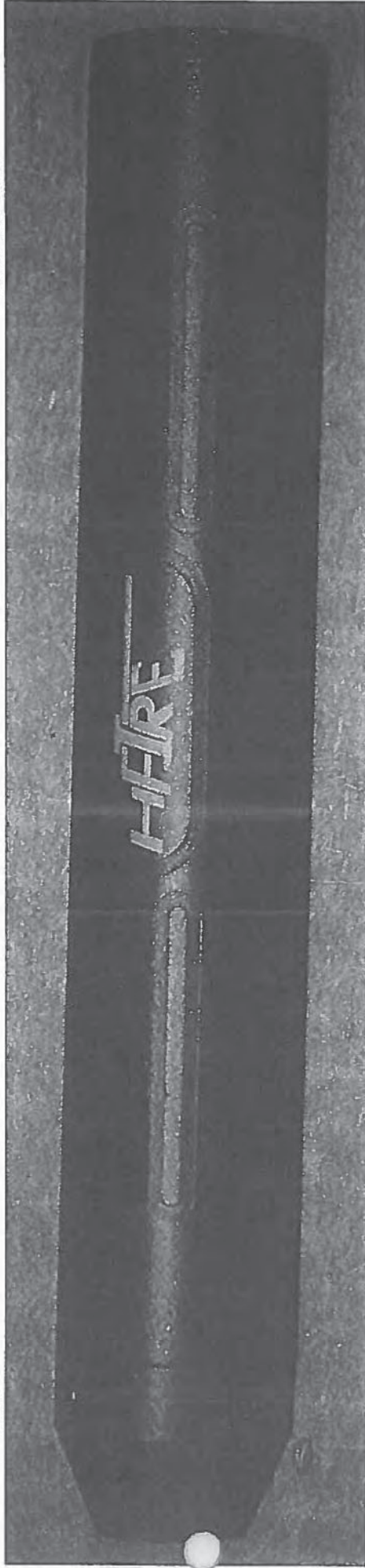


Exhibit 3 silencer (top); Exhibit 3 silencer attached to the NFC rifle during test-firing (below).

